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Attorneys for Plaintiff MACKENZIE ANNE
THOMA, an individual and on behalf of all
others similarly situated,

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MACKENZIE ANNE THOMA, a.k.a.
KENZIE ANNE, an individual and on behalf
of all others similarly situated,

Plaintiff,

v.

VXN GROUP LLC, a Delaware limited
liability company; STRIKE 3 HOLDINGS,
LLC, a Delaware limited liability company;
GENERAL MEDIA SYSTEMS, LLC, a
Delaware limited liability company; MIKE
MILLER, an individual; and DOES 1
through 100, inclusive,

Defendants.

CASE NO.:2:23-cv-04901-WLH(AGR_x)

[Assigned to the Hon. Alicia Rosenberg]

JOINT STATEMENT

Pursuant to the Rules and Procedures of the Honorable Alicia Rosenberg, this Joint Statement is being submitted by counsel for Plaintiff Mackenzie Anne Thoma (“Plaintiff”), an individual and on behalf of all others similarly situated, and counsel for Defendants VXN GROUP, LLC; STRIKE 3 HOLDINGS, LLC; GENERAL MEDIA SYSTEMS LLC; and MIKE MILLER (“Defendants”) (hereby referred to collectively as “the Parties”).

I. Areas of Disagreement

Defendants served three document production subpoenas on three third parties: (i) Meta Platforms, Inc d/b/a Instagram, LLC; (ii) Mainboard, LLC; and (iii) Ryan Murphy, Plaintiff’s licensed talent agent. Plaintiff and Defendants disagree on the propriety of the subpoenas.

II. Individual Subpoena Requests

A. Subpoena For Meta Platforms, Inc., d/b/a Instagram, LLC

Plaintiff’s Position For Requests No. 2-5:

Plaintiff maintains that she has standing to file a motion to quash for this request, as the following objections are asserted subject to her own personal right or privilege. This request invades Plaintiff’s right to and reasonable expectation of privacy. This requested document is protected subject to the Store Communications Act. This request is utterly irrelevant to Phase I Discovery.

Defendants’ Position For Requests No. 2-5:

Plaintiff: (i) fails to identify her asserted “own personal right or privilege”; (ii) Plaintiff waived any right to privacy by bringing her putative wage and hour class action; (iii) the request does not seek the content of communications stored by the electronic communication service (“ECS”) within the meaning of Stored Communications Act (“SCA”); and (iv) the information sought is relevant to Phase I Discovery.

B. Subpoena For Mainboard Platforms, LLC

Plaintiff’s Position For Requests No. 1-10:

1 Plaintiff maintains that she has standing to file a motion to quash for this
2 request, as the following objections are asserted subject to her own personal right or
3 privilege. This request is utterly irrelevant to Phase I Discovery.

4 **Defendants' Position For Requests No. 1-10**

5 Plaintiff: (i) fails to identify her asserted "own personal right or privilege";
6 (ii) waived any right to privacy in communications with her licensed talent agent
7 who procured work with Defendants by bringing her putative wage and hour class
8 action; (iii) Mainboard is not an ECS within the SCA. Mainboard provides software
9 used by her licensed talent agency for procuring work for Plaintiff; and (iv) the
10 information sought is relevant to Phase I Discovery, where the Court has ordered
11 that discovery shall be limited to "two threshold issues related to Plaintiff's
12 individual claims: (i) whether Plaintiff is an independent contractor or employee;
13 and (ii) whether Plaintiff falls under the professional actor exemptions of IWC
14 Wage Order 12". [Dkt. 66 p. 8]. Importantly, the Court has only given the Parties
15 120 days to conduct this discovery and Plaintiff has objected to every formal
16 discovery request issued by Defendants.

17 **Plaintiff's Additional Position For Requests No. 1-4 and 8-10**

18 Plaintiff maintains that she has standing to file a motion to quash for this
19 request, as the following objections are asserted subject to her own personal right or
20 privilege. In addition to the objections highlighted above, Plaintiff asserts that this
21 request invades Plaintiff's right to and reasonable expectation of privacy. This
22 requested document is protected subject to the Store Communications Act.

23 **Defendants' Position For Requests No. 1-4 and 8-10**

24 See above.

25 **C. Subpoena For Documents For Ryan Murphy**

26 **Plaintiff's Position For Requests No. 1-38:**

27 Plaintiff maintains that she has standing to file a motion to quash for this
28 request, as the following objections are asserted subject to her own personal right or

1 privilege. This request is utterly irrelevant to Phase I Discovery.

2 **Defendants' Position For Requests No. 1-38**

3 Plaintiff: (i) fails to identify her asserted "own personal right or privilege";
4 and (ii) waived any right to privacy in communications with her licensed talent
5 agent who procured work with Defendants by bringing her putative wage and hour
6 class action; (iii) any third party privilege objection waived by failure to timely
7 object; and (iv) the information sought is relevant to Phase I Discovery; namely
8 Ryan Murphy was Plaintiff's talent agent who was responsible for arranging for
9 Plaintiff to work for Defendants and therefore has in his possession documents
10 related to (i) whether Plaintiff is an independent contractor or employee; and (ii)
11 whether Plaintiff falls under the professional actor exemptions of IWC Wage Order
12 12". [Dkt. 66 p. 8].

13 **Plaintiff's Additional Position For Requests No. 1, 6, 8-16, 19-21, 23-28 and 32,**
14 **34, and 39**

15 Plaintiff maintains that she has standing to file a motion to quash for this
16 request, as the following objections are asserted subject to her own personal right or
17 privilege. In addition to the objections highlighted above, Plaintiff asserts that this
18 request invades Plaintiff's right to and reasonable expectation of privacy. This
19 requested document is protected subject to the Store Communications Act.

20 **Defendants' Additional Position For Requests No. 1, 6, 8-16, 19-21, 23-28 and**
21 **32, 34, and 39**

22 Plaintiff: (i) fails to identify her asserted "own personal right or privilege";
23 and (ii) waived any right to privacy in communications with her licensed talent
24 agent who procured work with Defendants by bringing her putative wage and hour
25 class action; (iii) any third party privilege objection waived by not timely objecting;
26 (iv) Ryan Murphy, Plaintiff's licensed talent agent, is not an ECS within the
27 meaning of the SCA; and (v) the information sought is relevant to Phase I
28 Discovery. Specifically, Defendants' request falls within what the Court identified

1 as relevant discovery claims at this phase, including “Plaintiff herself, *her*
2 *communications*, and *her direction of payment to affiliated entities*, among other
3 things.” [Dkt. 66, p. 6].

4 **Plaintiff’s Additional Position For Requests No. 14, 15, 19-21:**

5 Plaintiff maintains that she has standing to file a motion to quash for this
6 request, as the following objections are asserted subject to her own personal right or
7 privilege. In addition to the objections highlighted above, Plaintiff states that this
8 request asks Mr. Murphy, a lay person, to make a legal contention.

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Defendants' Additional Position For Requests No. 14, 15, 19-21:

Plaintiff: (i) fails to identify her asserted “own personal right or privilege”; and (iii) waived any right to privacy in communications with her licensed talent agent who procured work with Defendants by bringing her putative wage and hour class action; (vi) any third party privilege objection waived by not timely objecting; and (v) calls for a legal conclusion is not a federally recognized objection. Further, even assuming such an objection was valid, the request does not require a legal conclusion. Importantly, Plaintiff’s counsel does not represent Ryan Murphy, and Plaintiff cannot specifically identify any legally protected interest of her own in the document request.

Dated: May 31, 2024

BIBIYAN LAW GROUP, P.C.

By: /s/ Sarah H. Cohen
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SARAH H. COHEN
Attorneys for Plaintiff

Dated: May 31, 2024

KANE LAW FIRM

By: /s/ Trey Brown
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BRAD KANE
Attorneys for Defendants